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OUR OLD AMERICAN FREEDOM

BY JUDGE PETER S. GROSSCUP

The Industrial Conference at Washington performed at least one service to the country; it uncovered to those who can see, the exact point of difference between what the Gompers' type of labor unionism is striving to obtain and what the employers refuse; and that point is not so much concerned with wages, or with hours or conditions of labor, or with the right of collective bargaining, as such, as with the application of that right *in practice* to the particular industry or shop involved. The Steel strike which Mr. Gompers himself chose as an illustration furnishes a typical illustration. In the steel industry a large majority of the workers are in organizations not connected with the American Federation of Labor. Mr. Gary was ready to deal with these inner organizations. The American Federation of Labor, however, insisted that he should deal with it, an outside organization, also. There are some who think he could have dealt with both. But as a matter of cause and effect, proved by experience, his consent to have dealt with the delegates of the American Federation would have eventually put the whole steel industry under the Federation's dominion; for in a contest for membership between the inner organizations and the greater outer organization that would have followed (and it was to obtain a foothold for such contest that the Federation went to Judge Gary), the organization that could claim that labor the country over was behind it, supplemented with the drive that would be made on the strength of class feeling from the outside, would have had a momentum that would have put the inner organization, at least, to a decided disadvantage. As Judge Gary says, it would not be long, under such circumstances, before the open shop would become a closed shop. The principle of the open shop is that it shall be open to all individual workers who wish to work in it, and that

such workers shall be free to organize within the industry with which they are personally connected; but to maintain it as an open shop it must, as a matter of experience, be closed to the advent of those organizations, *as organizations*, that once admitted would proceed to make it a closed shop. The matter thus stated is not one of abstract right; it is a matter purely of what would happen in practice; something that Mr. Gompers well knows would happen. Indeed, to take from employers such right of saving to themselves the open shop is exactly what he is driving at; so that the question for the public to pass upon is: Shall the employers be placed in the position where, as human nature goes, they cannot maintain the open shop—cannot keep their employees from being taken over by the outside, country-wide, unions. And were the result of no interest to anyone except employers and Mr. Gompers' type of unionism, the public might leave it there to be fought out by themselves.

But the time has come when the public should wake up to a realization that the question is not one between employers and Mr. Gompers' kind of unionism alone—that it is a question in which the public is interested, because, rightly understood, it goes to the foundations of society itself. To present that question requires that some fundamentals in political economy be recalled from the exile to which they seem to have been banished.

The first of these is a true conception of Capital, Labor, and Property, not only as each is a concern of its own, but as corollaries to each other.

Someone, in the remote past, living by the chase, was the first to make a bow and arrow; others followed his example; the tribe to which they belonged allotting to the maker to be his individual own, what he had thus individually created. Right there began the institution of property.

Someone, discovering that the earth yielded better results by cultivation than when left alone in its wild state, began to raise food from the soil; others followed his example; and the tribe to which they belonged set apart to each of them a piece of ground to be his own. The institution of property in the soil thus began; carrying with it the huts they erected for shelter, together with the tools,

the cattle and the materials for raiment, they gathered round it, to make life more comfortable. Thus at the beginning Property was nothing more than Labor individualized—Labor minted into something that survived the hour at which the laborer went to bed—the reason for the existence of property being that the something thus saved over from the current day makes the next day easier.

True, into this earliest concept of property have come from time to time many selfish irruptions—the parcelling out of the soil by chieftains to their favorites upon no basis of merit but only upon that of personal liking—which lies at the bottom of the social unrest of today in such countries as Russia, Germany and Great Britain.

True also, that in these latter days, when great units of operation have been found essential to the utilization of the laws of nature that mankind has annexed to his possessions, there have come complexities and difficulties in the way of restraining greed, that have given rise to much of the social turmoil of today. But neither of these fungi on the trunk go to the root of property, as “labor individualized,” in its true and noble meaning. On the contrary, rightly understood, they should lead us back to the spirit of its original conception and earlier development.

The second fundamental is that Property must feed itself, as well as its owners, or it will perish; that like the plant, it must be continually weeded out, cut down, and replanted, as the changes in industry, like the changes of the seasons, come and go. Big as we think wealth has grown, it is not large as compared with the current needs of mankind; for were the world to stop replenishing itself by work and frugality, and live on what it already has without further work, as a man suddenly come into a fortune might do, it would not take more than three or four years until, could it trade its possessions to another planet for current needs, it would have become a pauper; which means that the only thing that one generation inherits from another, in the way of industrial wealth, is brain and muscle, and the raw material to which to apply them. All the rest is Work; so much so that when applied to any given property, unless we are to let it quickly perish, enough must be taken out of its current productivity by those who own it, not only to maintain it against loss and deteriora-

tion, but to constantly replant it as a whole; which in turn means that Property must have profits much beyond the mere need of its owners and their families for the current cost of individual living; in a word that Property (and therefore Labor as well) must set aside "Capital"—must keep their eyes forward for the needs of tomorrow as well as immediately around themselves for the needs of today. Eat, drink and be merry, for tomorrow thou shalt die, was never written for either labor or property, unless it is that tomorrow they wish to die.

The third fundamental is less easily stated or understood. It has to do with the productivity of a people as a whole—the actual things they produce, as distinguished from their mere reflection back, in the mirror of money language—for beyond the actual things produced there is nothing to divide—a mere reflection back in the mirror has nothing "actual" to be divided. We are too apt to think in terms, not of "things" but of "money"—that what the people as a whole have taken out of the year's industry is so many dollars (so much as profits to Capital and so much as wages) without a thought that as something by *itself* money is nothing at all—is only the reflection, in an artificial mirror, of the year's actual product. Suppose, for example, ten boys have one hundred oranges to divide. We may call the oranges worth five cents apiece, in money, or we may call them worth ten cents. In either case the *orange* is the same. And what the boy gets, and what he wants, is the orange, not its money reflection. You neither help him by reducing it, in money formula, to five cents, or hurt him by raising it, in money formula, to ten cents, provided he gets the oranges to which he is entitled. Just so with the year's productivity of the people as a whole—"actual things" a people produce during the year—new farms opened up, new crops taken off, new industries put on their feet, new food, new raiment, and the like—whether we call the total twenty billions as their money worth, or forty billions, or one hundred billions, the farms, the crops, the industries, the food and raiment are, on that account, no more and no less; the actual product to be divided between its producers remains the same, totally irrespective of increase or diminution due to what we call their money value. And, like the boy, what the

people actually get, and what they want, in the year's productivity, is the actual thing, not merely its money reflection in the mirror. In a word, profits and wages, in their relation to the actual things produced, in any given time, is, at bottom, a problem, not in Addition, but in Division.

But every problem in division has a "divisor." When we talk of rise or fall in profits or of wages to any specific interest in society it is the "divisor" that is being affected. Let us go back to the illustration of the oranges and the boys. Were the division equal each boy would receive ten oranges. But if equality cannot prevail it is plain those who get more than ten do so at the expense of those who will have to take less. And what happens is not an enlargement of the things to be divided—the number of the oranges—but a shifting of the *ratio* among those who constitute the recipients. What each one takes above an equal share deprives some one who has to take less. And just so it is with the division among individuals of productivity as a whole in industry. Some earn more. The brain that can organize and administer earns more than the brain that only deals with details. The hand that can do the finer or more difficult things earns more than the hand that can do only the coarser or easier things. That is as it should be. Even in those instances of tremendous disproportion the results, in the long run, are helpful rather than hurtful; for the man who builds up a big enterprise gets very little more out of it, *for himself*, than his best workman. The balance goes into more enterprise—a larger organization—that in turn becomes the axis around which new opportunities for work revolve; which is immensely better than to divide it all up, and consume it all, as if each year were something complete in itself.

But any shift in ratio not based on considerations like these—any enforced shift—is injustice. And in every such shift, what one gets away with beyond his rightful share is that much unjustly taken from the share of others, unless, as in the case of the munition makers during the war, or the railway employees, the excess is made up out of the United States Treasury. And, in the long run, even that is an increase to one group at the expense

of others, for it is always the people who are the ultimate tax payers.

The fourth fundamental is a corollary of the three just mentioned. As I have said, it is the actual things produced, not their money value, that constitute the dividend. Any falling off of such actual things is a diminution, by that much, of the dividend to be divided; and when there is less to be divided the demand (and therefore the price) is increased. Less hours of work on the part of everybody, brain worker or hand worker, not made up for by increased efficiency, is just such diminution of the dividend as a whole, and accounts, to that extent, for the high prices. The ten boys, in the illustration given, cannot have the one hundred oranges unless they produce them. And if each wants ten, and only ninety are produced, they will bid against each other to see who gets his ten and who is left. Of course improved methods of production, supplemented by increased personal efficiency, tend to counteract this. But that they have not entirely counteracted it is proven by the presence of opportunity to run up prices. The proof of the pudding is in the eating.

Under this head there follows another corollary. Assuming that the actual things produced are the same, but that each individual wants to consume more than he did before, a result similar to decreased production follows, for in the pursuit of getting that "more" each bids against the other, the demand increases, and, in consequence, the opportunity to run up prices. You cannot increase your appetite for the oranges, unless the whole number produced is increased, without bidding out of the running some one else. And this is especially true if twenty-five of the hundred oranges are a little better than the remaining seventy-five, and each wants *his* share out of the twenty-five. At the bottom, in this struggle for the most and the best between individuals—in the wage field as well as in the field of capital—is the tragedy of the high cost of living. The strong prevail, the weak are left helpless. The profiteer in business as well as labor, the profiteer in labor as well as business, are achieving their victories at the cost of those—the multitude—who do not know how. And did everybody know how, no one would be bettered and no one worsened, for each would counteract the other and leave

everyone, where he ought to be, to his just share, on the merits, in the division.

In view of all this the fifth fundamental comes in—the need of running a clear distinction between what may be called the Humanities on the labor side of industry (child labor, sanitary conditions, compensation for injuries, old age pensions, excessive hours, and the like) and what may be called those points in industry at which individual interests necessarily come in conflict, such as wages, hours of labor not inherently excessive, control of the business, and the like. The “humanities” are matters that in their very nature carry the same appeal to every just mind, everywhere, and all the time. The “points at which individual interests come in conflict,” on the contrary, center largely on considerations relating to some particular industry, at some particular time and place. The first submits logically to general regulations; the latter, in its very nature, cannot be determined by any fixed general regulation because it is bound up in matters that can have no correspondingly fixed conditions. You can exclude child labor, or administer a just policy for compensation for injuries, everywhere without harming anyone. But you cannot enforce the same wage scale on the enterprise running close to the edge of bankruptcy and the enterprise with established profits without either destroying the one or bringing wages in the other down to the minimum. In matters so widely separated as one enterprise is from another, in all that relates to what each can afford to pay, identity of treatment, aside from what I have called the “humanities,” is impossible.

This means the elimination of the outsider, whether he be a labor union or a mere agitator, from the post of judging any differences arising over anything, except the humanities, in specific industries, except as such outsider comes there as an authorized mediator or arbiter. Stripped to its real meaning, the interference by outside parties, which leads usually to a sympathetic strike or a threat of it, is not trial and judgment on evidence, but trial by force—the force employed being often an organized movement to ruin parties not involved unless they join in ruining the parties directly involved.

The sixth fundamental is that something, in every man

worth while, that demands a *man's* part in what is going on in the world. It is not only the man who works with his brains who wants a cheerful home to go to, good food and clothing for himself and his family, occasional trips into other parts of the world, means of entertainment, and sufficient surcease from toil to leave within him the life and spirit to enjoy such things. The man who works with his hands wants these things also. But, like the man who works with his brain, while wanting these he wants, if left to his normal instinct, something more. He wants an individual part in the permanent structure going up around him. In times of war, such as we have gone through, this want takes the more or less spiritual form of service or contribution—open to all. But in times of peace, such as we have come into again, aside from the works of benevolence, the arts and literature—open to all—his only resource is in that side of industry that, surviving the year's consumption, becomes something materially permanent, and susceptible of individual ownership. Here the door, aside from agriculture and small trade, is still closed, except in theory, to the multitude. The strength of America, like that of France, has been in her farm land, owned by those who cultivate the soil. The strength of Germany—that which enabled her to float loan after loan in the war—was in her corporate industrial structure, owned largely by those in whose hands lay the direction of the lathes, the spindles, the forges, and the other fingers of manufacture. Here, at least, was an area of common interest between employer and employee. Each employee was to some degree his own employer. It is only where men have no common interest—are bound together by the bare relation of employer and employee—that there is an area of unrest. In Russia particularly, and to a large extent in Great Britain, that area covers the whole of the country. And in Russia it is showing its fruits. It is time for us to perceive that what we call "capital" and what we call "labor" are only the two visualized sides of one single entity. One side of that entity is peopled with those whose hands are hardened and whose faces are wet with the sweat of the tasks that fall to them; bringing only such satisfaction, aside from mere wages, as is contained in the fact that it affords a job. The other side of that entity, except in our agricultural regions

and small trade, is scarcely peopled at all with those who work—is a moated castle to its workers whose drawbridges are always up. Fifteen years ago I began to urge that the true solution of our industrial problem was to peopleize this unpeopled side, from the people at large, who have not only the means, as the bank deposits showed, but an in-born instinct also to share in the actual proprietorship of a growing civilization. It was too early then—had too much of the element of common sense in it, perhaps—to either catch or hold the attention of the country. But the thought underlying it has been going on in a practical way in many big enterprises. The reformation of the corporation as a medium of safe proprietorship, as well as successful operation, has been going on also. The feeling that a widely distributed proprietorship is right and the perception that it is practicable, has been developing. And above all, the only alternative—the world held by the throat by those with whom mere strength takes the place of right—has brought into the foreground the inevitable failure and devastation of trying to set aside the established industrial truths of the past with the fatuous theories and unbridled passions that project themselves so prominently into the present.

Now in view of these fundamentals what attitude should the public take? According to Mr. Gompers' type of unionism, the function of all labor organizations is nothing less, when it comes to close quarters, than to wield the power of labor as a whole, the country over, in what is adjudicated by *its* verdict, to be the interests of the employes of a particular plant, as well as the interests of labor as a whole. The "State" is merely society politically organized. What Mr. Gompers' kind of labor organization seeks is an "industrial state" within the "political state"—an *imperium in imperio*—labor the country over at the beck and call of the inner imperium. And so intent are labor unionists of this type on the power that would ensue to them were this once recognized as established right, that rather than miss obtaining it they would consent to a like organization of capital into what would approach a capitalist imperium, irrespective of the effect such an apportionment of the country to the two classes would have on the public as a whole. I am not over-stating what Mr.

Gompers is striving for. He looks upon employers and employes, not so much as citizens along with the rest of the public in a common country, as parties to a duel in which the public is only referee. The labor union being his principal, he wishes naturally to increase its strength and advantage of position. That can be best done, he thinks, by putting it under a single all-powerful dominion. And that there is danger that the public may be misled into taking this view of the situation also, is evidenced by the fact that there were at least some members of the Public Group in the late Industrial Conference who thought their task (and so said) was to devise a "Code" for the duel.

My first impression of the Plumb Bill was that it showed some sign of labor becoming interested in industry, as individual citizens—prospective individual proprietors—as well as wage workers, but I have to abandon that impression. The whole object of the bill, as it now seems to me, is not to join with capital in creating and maintaining industry, but to eliminate capital. True, in order not to be accused of confiscating what people have invested, the Plumb proposal contemplates that they shall receive in payment of their investment government bonds bearing 4 per cent interest at par. This, if accomplished, would do two things, as the Railway Brotherhoods seem to see it, viz.: it would avoid the appearance, at least, of outright confiscation, and it would substitute for private capital the capital of the whole nation. Having thus created a "government domain" out of the industries now privately owned, the Brotherhoods propose, in effect, that such domain be leased to the workers—those who are immediately connected with the manual operation of the industries either as brain workers or hand workers—for such private gain as they could make out of their operation, after the payment of operating expenses (including wages and salaries), depreciation, and fixed charges in the way of interest. The proposal is limited to the industries as they now stand, at least in the case of the railroads; it being contemplated that extensions and the like will have to be financed by the communities seeking them—presumably as a "community domain" going immediately under the

general leasehold arrangement for the benefit of the workers.

Our government debt is already over twenty-four billion dollars—almost six times what it was at the close of the Civil War. The initial bond issue to thus translate the railways into a “government domain” would be at least twenty billions more. Were other industries to follow, as is expressly contemplated, a further issue of more than thirty billions would have to be put out; a total of more than seventy-four billion dollars out of property that at its book value (and if capital be abolished “good will” or “going value” go with it) of not to exceed one hundred millions. The wonder is that the farms of the country, and the homes of the country, are not also included, thus completing the transaction of making everything “public domain” and everybody lessees of the government. Of course, until the American People are ready to plunge, at one leap, into a complete new order of things, from which personal liberty, and individualism of every kind—the work of six hundred years of Anglo-American development—will have been extracted and thrown on the dump heap, this programme remains a paper proposal only. Its only merit is its audacity—its very impossibility, the quality that gives it entree to the public ear. The Plumb Bill is nothing but labor unionism, as an imperium apart from the rest of the citizenship, on the lookout for such profits as might have been overlooked in its prior appropriation of them for wages.

As against this project to raise up in the midst of our old political state a new industrial state—perhaps two of them, for capital would have to follow labor in this respect—the Cummins Bill now pending in the Senate embodies a feature, that were it made a distinctive objective to further legislation, would largely supplant “class combat” with “common interests.” To sum up the high points of the Cummins Bill it may be said that it looks to greater unity, and therefore to greater efficiency, in the operation of our railway system—something heretofore (before the war) forbidden by the Sherman Act—and accordingly contemplates such consolidation, under federal charter, of existing and future railway lines, as will eliminate the wastes due to the overlapping of transportation

facilities, while still preserving competition. This is to be done by grouping the roads into not less than twenty and not more than twenty-five separate systems, so adjusted that neither may be a supernumerary to the other and yet each be in competition with the other. This adjustment will be the work of railway and traffic experts, of course.

The Cummins Bill, also, contemplates that the existing capitalization of the roads shall be transferred into new securities, based, not on nominal or stock market values, but upon actual values as ascertained by the appraisal now in progress. This will squeeze out the water where there is water, and put the new capitalization on a basis on which just and reasonable rates can be easily determined by the Interstate Commerce Commission. As a corollary the Cummins Bill forbids the issue of new securities except on the approval of the Commission, and likewise requires the building of new lines to have a like approval—a provision whose counterpart in England is the precedent approval of a committee of the House of Commons. When all this is accomplished neither the railroads, nor their finances, will be longer the football of Wall Street manipulation.

The Cummins Bill gives to labor, as also to the Government, representation on the boards of directors of the several systems; and provides that out of the earnings of the roads, over and above fixed charges, including interest and dividends on the new securities, and maintenance and deterioration (having in mind also that lean years have to be provided for out of fat years) a certain percentage shall go toward a fund to finance new equipment from time to time, and another percentage to labor in aid of hospital relief, insurance and pensions, technical education, invention and research to promote better labor conditions, and, as originally reported, profit sharing.

And last, but not least, the Cummins Bill sets up a Committee on Wages and Working Conditions, upon which capital and labor are equally represented, the Government holding the balance of power, whose decision shall be final, and from which there cannot be an appeal through conspiracy, combination, or a strike, other than the right of each individual to quit work for himself at his own will. In this way the seeds of Sovietism that under irresponsible radical leadership is trying to undermine the

concept of law and order on which our Government rests, will be nipped and destroyed.

Now with the railway systems, representing not less than one-fifth or sixth the property wealth of the country, thus emancipated from stock jobbing manipulation on the one hand and Soviet irruptions and violence on the other, what is bound to happen? When one opens an avenue to a reservoir of water, pressing for an outlet, the water is bound to flow through. Individual proprietorship in the railways of the country, by the public at large, and especially by their American minded employes, has been waiting, even though unconsciously, the opening of just such an avenue. The necessary capital is in abundant existence—in the hands of the people at large too—the water is in the reservoir. That capital has been flowing for years, in the savings of those who are not called capitalists, first through the little rivulets whose sources are the small town bank deposits; then through the larger streams represented by the larger cities' banks deposits; then through the rivers to the points at which it has been dipped out by the big banks in the promotion of enterprise, in the way of loans, bonds and the like. Altogether that flow of individual capital, belonging to the people at large, would buy out all the securities of the railways at their real value, leaving as much over for other corporate industries. In a word the owners of the railways—the so-called big railway investors—are not such on their own capital, but have become such on the capital of the public at large, dipped out, in the way of bonds and loans, from this perennial stream of American thrift and frugality. And what kept the stream from flowing directly into proprietorship—what closed the avenue between the reservoir and direct ownership by the people at large of our American corporate enterprises—has been the public's lack of confidence in corporate securities other than bonds. And even in the matter of bonds there has been an intermediary to a large degree, in the trained savings banks. Remove this bar to confidence, as the Cummins Bill will remove it, with respect to the railways, and the country at large, especially the railway employes who look forward to better personal conditions, will fall into the practice of investing their individual capital directly in railway securities; for these will be as safe as

government securities and at a much better rate of return; so that the potentiality embodied in this feature of the Cummins Bill is the very antithesis to an industrial "state" within a political state—is based on the philosophy that surer justice for all comes out of mutuality of interest, supplemented by representation in management, rather than out of labor and capital as parties to a duel.

Capital has had its triumphant hour. It began with the closing years of the last century and came up to the opening years of the war. And in that hour a certain side of capital fell into the dominion of those who lived, bargained, and manœvered for all they could get for themselves, without thought of its effect on others or on the public—the means it employed being an attempt to organize within the state a unitary corporate interest (similar to Gompers' project for labor) that might be in a position to defy the interests of the balance of the state. But before the power of the people, and their determination to have but *one* state over them, the attempt went down.

Labor has now its hour. And as with that side of capital, one side of labor is in danger of falling under the dominion of those who scheme only for their own pockets in the division of productivity as a whole, without thought of its effect on the share of others or on the public. And the organism it is trying to build up within the state is the same kind of unitary interest that the people refused to capital. It, too, must fail. A labor hierarchy, setting itself over every other interest of mankind, can be no more endured than a money hierarchy. Least of all can it be endured by the great bulk of wage earners themselves, for, as we have seen, everything that the hierarchy adds to its own ratio in the division of productivity as a whole, comes out, in the end, of those who do not belong to it. Indeed what American Democracy will have to do is steadfastly to refuse to surrender to either of these hierarchies—the hierarchy that would gather into its own hands the enormous new property that has come out of the new industrial era, or the hierarchy that would take over to itself, as a special class in the ranks of labor, by force if necessary, nearly all that modern industry as the partner of mankind has given us.

No more formidable question has ever arisen since our Government began—formidable by the very complexity in

which it is involved—the question of how, preserving individuality in industry, as it has been achieved and is preserved elsewhere in life—in religion, government and civil liberty—the machinery of property acquisitions and distribution shall be so readjusted that the door to participation shall be opened in effect as well as in theory to all.

The war, the world over, has broken in on what was hitherto known as “authority,” in the State; and in the overthrow of things based on tradition, the traditional instinct to obey to a large degree has gone with it. In a sense the war freed men’s minds from the fetters of the past. But it has also turned them loose to wander without much sense of restraint in the marshes of the future. Many, too many, are going astray. To such as these, things that were settled—things that ought in the main to have remained settled—have become plastic. To these, society itself has become molten—is in a state of new cosmos; and thinking only of themselves, and of what they believe will be to their own advantage, they are bent on schemes that will return it to chaos. In the whole history of society, secured by government, there has been no more critical hour. Capital, I repeat, has had its hour. Labor is having its hour. But America as a great homogeneous people is hearing the strike of the hour also. Government by class—government as a by-product of the clash of class with class—cannot remain either just or stable. And it belongs to America, as a great homogeneous people, by stern force if necessary, to save the hour from those who would debauch it—to lift it into the beginnings of a sober democracy that will put industry again alongside of religion, civil liberty, and political liberty, as the laden table at which all will have room to sit down, but at which none will have license to violate the decencies of individual right. To the man who offers to America this programme, and to the party that backs him—to the man and the party who substitute for the present prevailing idea of *tour de force* as the arbiter in industry, the idea of a return to a *community of interest*, will come a response from the people, that will make our old American freedom the bulwark of the New Times;—for even in these new times there is room in America for only one all-powerful dominion—the Government, as it was given us.

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